



City of Seattle

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Department of Design, Construction and Land Use

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**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF DESIGN, CONSTRUCTION AND LAND USE**

Application Number: 2203717

Applicant Name: Sherwood Case

Address of Proposal: 2019 Fairview Avenue East (Houseboat 17F) (KCA #14)

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Permit for construction of a sunroom addition and an awning to an existing floating home.

The following Master Use Permit components are required:

Shoreline Substantial Development Permit - for an addition to a floating home in an Urban Residential (UR) Shoreline Environment - (SMC 23.60.540)

SEPA - Environmental Determination - (SMC 25.05)

SEPA DETERMINATION: ☐ Exempt ☐ DNS ☐ MDNS ☐ EIS

☒ DNS with conditions

☐ DNS involving non-exempt grading or demolition or
involving another agency with jurisdiction.

BACKGROUND DATA

Existing Conditions

The property is located in a Residential, Single-family 5,000 (SF 5000) zone and an Urban Residential (UR) shoreline environment. The site is submerged and is located on the east side of

Lake Union. The proposed work would occur on the houseboat which is located in a nonconforming floating home moorage. The existing float measures 44 feet long and 35 feet wide.

Area Development

The proposal site is part of an existing group of 14 floating home moorage docks; the subject floating home is located along the southernmost moorage dock. The subject site is fourth from the dock's end (Houseboat F). The site is bounded to the north, east, and west sides by other floating homes and to the south by water. Over water development surrounding the subject site consists of other floating home moorages, and other development in the immediate vicinity consists of single-family and multi-family residential uses and office uses.

Proposal

The applicant proposes to construct a second story addition to an existing floating home. The second story addition would enclose an existing deck over the first floor kitchen space to form a sunroom. The floor area of the proposed sunroom would be 156 square feet (11' 8" by 13' 4"). The highest point of the proposed sunroom addition would be 16' 3", as measured from the water surface.

The applicant also proposes to construct a 57-square foot awning over a portion of the existing deck on the first floor level.

No additional over water development coverage or expansion of the existing float is proposed.

Public Comment

The original comment period ended on August 15, 2003. No written comments were received. However, Metro generally recommends for floating homes, that to protect the water quality of Lake Union, materials, and construction methods should be used, which prevent toxic materials, petrochemicals, and other pollutants from entering surface water during and after construction. The least toxic wood preservatives that are appropriate for fresh water should be used. Any construction debris floating in the water should be promptly removed.

ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

Substantial Development Permit Required

Section 23.60.030 of the Seattle Municipal Code provides criteria for review of a shoreline substantial development permit and reads: *A substantial development permit shall be issued only when the development proposed is consistent with:*

A. *The policies and procedures of Chapter 90.58 RCW;*

B. The regulations of this Chapter; and

C. The provisions of Chapter 173-27 WAC.

Conditions may be attached to the approval of a permit as necessary to assure consistency of the proposed development with the Seattle Shoreline Master Program and the Shoreline Management Act.

A. THE POLICIES AND PROCEDURES OF CHAPTER 90.58.RCW

Chapter 90.58 RCW is known as the Shoreline Management Act of 1971. It is the policy of the State to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy contemplates protecting against effects to public health, the land use and its vegetation and wild life, and the waters of the state and their aquatic life, while protecting public right to navigation and corollary incidental rights. Permitted uses in the shoreline shall be designed and conducted in a manner to minimize, insofar as possible, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

The Shoreline Management Act provides definitions and concepts, and gives primary responsibility for initiating and administering the regulatory program of the Act to local governments. The Department of Ecology is to primarily act in a supportive and review capacity, with primary emphasis on insuring compliance with the policy and provisions of the Act. As a result of this Act, the City of Seattle adopted a local shoreline master program, codified in the Seattle Municipal Code at Chapter 23.60. Development on the shorelines of the state is not to be undertaken unless it is consistent with the policies and provisions of the Act, and with the local master program. The Act sets out procedures, such as public notice and appeal requirements, and penalties for violating its provisions. As the following analysis will demonstrate, the subject proposal is consistent with the procedures outlined in RCW 90.58.

B. THE REGULATIONS OF CHAPTER 23.60

The regulations of SMC, Section 23.60.064 require that the proposed use(s): (1) conform to all applicable development standards of both the shoreline environment and underlying zoning; (2) be permitted in the shoreline environment and the underlying zoning district; and (3) satisfy the criteria of shoreline variance, conditional use, and/or special use permits as may be required.

SMC 23.60.004 - Shoreline Policies

The Shoreline Goals and Policies which are part of the Seattle Comprehensive Plan's Land Use Element and the purpose and locational criteria for each shoreline environment designation contained in SMC 23.60.220 must be considered in making all discretionary decisions in the shoreline district.

The policies support and encourage the establishment of water dependent uses. Floating homes, because of their historic role in Seattle, are designated as a water dependent use. However, the

increase of floating home moorages or the increase in use of the shoreline or water area by floating homes is not necessarily encouraged. The intent is to recognize the existing floating home communities in Lake Union, while protecting natural areas, preserving public access to the shoreline, and preventing the displacement of water dependent commercial and manufacturing uses by floating homes. Areas with substantial concentrations of existing floating homes shall be given a designation that preserves residential uses. The proposal site is located in an area designated as Urban Residential, the purpose of which is to protect residential uses. Therefore, the proposed project would conform to the policies of the comprehensive plan and would be consistent with the purpose of the UR designation.

Development Standards

The proposal to construct an addition to an existing floating home is permitted outright in SMC 23.60.540, governing the UR shoreline environment. The proposed action is therefore subject to:

1. The general development standards for all shoreline environments (SSMP 23.60.152);
2. The development standards for uses in the UR environment (SSMP 23.60.540);
3. The development standards for nonconforming floating homes (SSMP 23.60.196); and,
4. The development standards for Single Family zones (SMC 23.44).

1. General Development Standards for all Shoreline Environments (SSMP 23.60.152)

General standards apply to all uses in the shoreline environments. They require that all shoreline activities be designed, constructed, and operated in an environmentally sound manner consistent with the Shoreline Master Program and with best management practices for the specific use or activity.

All shoreline development and uses must: (1) minimize and control any increase in surface water runoff so that receiving water quality and shoreline properties are not adversely affected; (2) be located, designed, constructed, and managed in a manner that minimizes adverse impact to surrounding land and water uses and is compatible with the affected area; and (3) be located, constructed, and operated so as not to be a hazard to public health and safety.

The proposed construction of a second floor sunroom addition constructed over an existing deck is consistent with the general standards for development within the shoreline area. General development standards (SSMP 23.60.152) state that Best Management Practices shall be followed for any development in the shoreline environment. These measures are required to prevent contamination of land or water. The Stormwater, Grading and Drainage Control Code (SMC 22.800) places considerable emphasis on improving water quality. To ensure conformance with the standards in SMC 23.60.157, the proponent will be required to notify contractors and subcontractors of these requirements.

2. Development Standards for UR Shoreline Environments (SSMP 23.60.570)

The development standards set forth in the Urban Residential Shoreline Environment relate to height, lot coverage, view corridors and public access. However, the subject site is located in a

nonconforming floating home moorage and is, therefore, subject to the development standards for such moorages (SSMP 23.60.196).

The remodeling, replacement, or rebuilding of a nonconforming floating home moorage is permitted subject to the provisions set forth in SMC 23.60.196(C), as laid out below.

Nonconforming Floating Home Requirements:

	Code Provision	Required	Existing	Proposed
Float Area	23.60.196.C1.a	Float area shall not be increased.	1,540 sq. ft	No change
Height	23.60.196.C1.b	18 feet max height from water level	17' 10"	Max height of sunroom addition would be 16' 3"
Setback	23.60.196.C1.c	6 feet min distance between subject home and adjacent walls	6' minimum to the west and east	No change
Setback	23.60.196.C1.d	3 feet min. distance between subject wall and site line	The floating home is approx. 6 feet from the nearest property line.	No change
Open Water	23.60.196.C1.e	No part of home may be further extended over water, beyond float edge.	No portion of the proposed structure extends beyond float edge.	No change
Accessory Floats	23.60.196.C1.f	Existing floats cannot be increased	No existing accessory floats	No change
View Corridor	23.60.196.C1.g	Cannot increase view corridor non-conformity	Cannot increase view corridor nonconformity	No change

The proposed second story addition and awning would be constructed on the existing float and would not increase the area of the floating moorage or the overall coverage for the moorage dock. No additional over water coverage is proposed for this floating home, and no portion of the floating home would be extended further over water beyond the size of the existing float. The total height of the floating home would continue to be within the maximum 18 feet allowed from the water's surface. All of the proposed setbacks from the adjacent walls and floats satisfy the standards for the nonconforming floating home structures.

The proposed project is consistent with the development standards for nonconforming structures in the UR shoreline environment and would not increase the extent of nonconformity. Therefore, the proposed project is consistent with the standards for the UR shoreline environment.

4. General Development Standards for Single Family Zone Uses (23.44 SMC)

SMC 23.44.008.C states that floating homes shall be subject to the provisions of SMC Chapter 23.60 except that they shall be subject to the parking provisions of this chapter. The proposed sunroom addition would not change the existing parking requirements of the floating home.

C. THE PROVISIONS OF CHAPTER 173-27 WAC

Chapter 173-27 of the WAC, sets forth permit requirements for development in shoreline environments and gives the authority for administering the permit system to local governments. The State acts in a review capacity. The Seattle Municipal Code Section 23.60 (Shoreline Development) and the RCW 90.58 incorporates the policies of the WAC by reference. These policies have been addressed in the foregoing analysis and have fulfilled the intent of WAC 173-27.

Summary

In conclusion, with conditioning as set forth below, no additional adverse impacts to the lakebed or to water quality are expected, and the proposed second-story addition and awning at this moorage site would be consistent with the provisions set forth in RCW Chapter 90.58, WAC Chapter 173-27, and SMC Chapter 23.60 (also known as the Seattle Shoreline Master Program (SSMP)).

DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

The Shoreline Substantial Development Permit is **CONDITIONALLY GRANTED** subject to the conditions listed at the end of this report.

ANALYSIS - SEPA

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated June 25, 2003. The information in the checklist and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

The SEPA Overview Policy (SSMC 25.05.665 D) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority.

The Overview Policy states in part: *"where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation,"* subject to some limitations. Under such limitations/circumstances (SSMC 25.05.665 D1-7) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

Bulk and Scale

The total height of the second story addition to the existing floating home at 16' 3" would be less than the 18-foot maximum height allowed from the water surface. There is adequate separation between the floating home and the floating homes to the north, east, and west, so solar access to those sites would not be obstructed. The appearance of bulk of the floating home will be reduced by design elements incorporated into the structure. There are a number of existing floating homes in the vicinity of a similar size and scale as the proposal. In addition, the applicant submitted documentation from the Log Foundation Board of Directors (home owner's association) approving the height of the proposed addition. For these reasons, the proposed floating home at KCA #14 would not be out of scale with other floating homes in the vicinity, and no adverse impacts are expected related to bulk and scale.

Underwater Habitat

No disturbance of the lake bed sediments is expected because all work would be done above water. There is potential for debris to enter the water during construction, however, so care would have to be taken to prevent this from occurring. In conjunction with the requirements set forth by SSMP 23.60.152, the general recommendations from Metro shall also be followed as conditioned for the Shoreline Substantial Development Permit.

Noise

Noise associated with construction could adversely affect the surrounding residential uses, thus the limitations of the Noise Ordinance are found to be inadequate. Pursuant to the SEPA Overview Policy (SMC.25.05.665) and the SEPA Construction Impacts Policy (SMC 25.05.675 B), additional mitigation is warranted. Thus, the hours of construction should be limited to non-holiday weekday hours between 7:30 a.m. and 6:00 p.m. pursuant to SEPA authority to mitigate construction impacts (SMC 25.05.675.B).

DECISION - SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirements of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

- [X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030(2)(c).
- [] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(c).

CONDITIONS

Of the following conditions, those to be enforced during construction shall be posted at the site in a location along the property line that is visible and accessible to the public and to construction personnel from the street right-of-way. The conditions will be affixed to placards prepared by DCLU and issued along with the building permit set of plans. The placards shall be laminated with clear plastic or other waterproofing material and shall remain posted on-site for the duration of the construction.

The owner(s) and/or responsible party(s) shall:

SHORELINE CONDITIONS

Prior to Issuance of a Construction Permit

1. Notify in writing all contractors and sub-contractors of the general requirements of the Shoreline Master Program (SSMP 23.60.152), including the following:
 - a) The location, design, construction and management of all shoreline developments and uses shall protect the quality and quantity of surface and ground water on and adjacent to the lot and shall adhere to the guidelines, policies, standards, and regulations of water quality management programs and regulatory agencies.
 - b) Best Management Practices shall be employed during the proposed over-water work as necessary to keep debris and deleterious material out of the water. The contractor shall include on the plans a written description of the BMPS that will be used during the proposed work.
 - c) Prior to commencing construction, an emergency containment plan and procedures shall be developed for all toxic material that will be kept on site. All necessary equipment for containment and clean-up of this toxic material should be stocked on the site. A sufficient number of personnel, both during construction and during on-going operations, shall be trained in the proper implementation of this plan.
 - d) Equipment for the transportation, storage, handling and application of oil, chemicals, or other hazardous materials shall be maintained in a safe and leak-proof condition to prevent release of this material into the water.

During Construction

2. Preventative measures shall be taken by the owner(s), builder(s), or responsible party(s) to keep toxic materials, petrochemicals and other pollutants from entering surface water during the proposed construction work. Spill prevention and response material shall be kept at the site for quick response to any toxic spills, such as fuel, at the site.
3. Appropriate best management practices (BMPs) shall be employed to prevent debris or deleterious material from entering Lake Union during the proposed work including:
 - a) A containment boom, which shall be deployed during the work to contain any debris that drops in the water during construction.
 - b) This boom shall be placed along the perimeter of the floating home before the proposed work begins. The boom shall be removed at the end of each day and then reinstalled before work begins the following day.
4. If floating debris enters the water during the proposed work this debris shall be removed immediately and stored until it can be disposed of at an appropriate upland facility.
5. If heavy (sinking) debris enters the water during the proposed work the location of the debris shall be documented. When construction is complete a diver shall retrieve all debris that has entered the water and sunk during the proposed work.
6. Equipment using oil, gasoline, or diesel, used on site, shall be checked for evidence of leakage, if evidence of leakage is found the further use of such equipment shall be suspended until all leaks have been eliminated.

SEPA CONDITIONS

1. In order to mitigate the noise impacts during demolition and construction, the owner(s) and/or responsible party(s) shall limit the hours of demolition and construction to non-holiday weekdays between 7:30 a.m. and 6:00 p.m. This condition may be modified by the Department to permit work of an emergency nature or to allow low noise interior work after the shell of the addition is enclosed. This condition may also be modified to permit low noise exterior work after approval from the Land Use Planner.

Signature: (signature on file) Date: October 23, 2003
Leslie C. Clark, AICP
Land Use Planner

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